

### **REMARKS**

Responsive to the Office Action mailed April 13, 2007, Applicants provide the following. New claims 19 and 20 have been added, and claims 6 and 11 have been amended without adding new matter. Twenty (20) claims remain pending in the application: Claims 1-20. Reconsideration of claims 1-18 in view of the amendments above and remarks below and consideration of new claims 19-20 is respectfully requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

### **Rejections under 35 U.S.C. §101**

1. Claims 11-15 and 18 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants respectfully traverse these rejections; however, Applicants have amended claim 11 to recite logic stored on a computer readable medium that is statutory subject matter having practical applications that produce useful, concrete and tangible results (see at least MPEP 2106). As such, claims 11-15 and 18 satisfy 35 U.S.C. §101 and the rejections to claims 11-15 and 18 are rendered moot in view of the amendments. Therefore, claims 11-15 and 18 are in condition for allowance.

### **Rejections under 35 U.S.C. §112**

2. Claims 1-10, 16 and 17 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The office action suggests that “[i]ndependent claims 1 and 6 recite steps of ‘identifying a type of device on each of the client apparatuses’ and ‘generating communication ... comprising an object specific for each of the client apparatuses based on the type of device identified,’ which is not supported in the specification as originally filed” (office action, pg. 3). However, Applicants respectfully submit that at least claims 1 and 6 are fully supported by the specification and these recited steps

are fully supported and disclosed at least with respect to Figure 10 of the application as filed, see at least steps 1000, 1002 and 1004, as well as at least the description of Figure 10 at pages 33-34.

For example, the specification states “a type of playback devices of the client apparatuses is first identified ... A command associated with the identified type of the playback device is then looked up in a look-up table,” and further states that “the command is sent to the corresponding client apparatus for beginning the playback of the event simultaneously with the playback of the event on each of the remaining client apparatuses” (pg. 33, lines 1-10). As such, claims 1-10, 16 and 17 are supported in the specification as filed in at least the implementation of generating and communicating objects specific for each of the client apparatuses based on the type of device identified. Therefore, claims 1-10, 16 and 17 comply with 35 U.S.C. 112, first paragraph, and are in condition for allowance.

### **Rejections under 35 U.S.C. §103**

3. Claims 1-10 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,825,876 (Peterson) in view of U.S. Patent Publication No. 2002/0026321 (Faris et al.) and U.S. Patent 5,808,662 (Kinney et al.) and in further view of U.S. Patent 6,725,281 (Zintel et al.). Applicants respectfully traverse these rejections and submit that at least claim 1 is not obvious over the combination of the above references. More specifically, claim 1 recites in part,

- (a) providing a plurality of events stored in memory on a plurality of client apparatuses ...
- (d) identifying a type of device on each of the client apparatuses; and
- (e) beginning the playback of the event simultaneously on each of the client apparatuses comprising generating communications for each of the client apparatuses comprising an address to each of the client apparatuses and an object specific for each of the client apparatuses based on the type of device identified and forwarding the communications with the objects specific for each of the client apparatuses ....

The above cited references fail teach or suggest at least identifying the type of device on each of the client apparatuses and sending an object specific to each of the client apparatuses based on

the type of device identified. The office action admits that Peterson does not teach or suggest these limitations and instead relies on Zintel suggesting that the Zintel patent describes identifying a type of device on each of the client apparatuses (office action, pg. 8). The Zintel patent, however, does not describe or suggest at least “generating communications for each of the client apparatuses comprising ... an object specific for each of the client apparatuses based on the type of device identified”. Instead, Zintel prevents communication to different device types and only allows communication between those devices having the same minimum set of functionality, and thus, teaches away from generating communications for each client apparatus based on different types of devices.

The office action suggests that Zintel describes an object specific for each client apparatus and relies on col. 7, lns. 33-43, col. 7-8, lines 56-2 and col. 8-9, lines 63-2. However, the language relied on by the office action only defines a device having a “required set of Service Definitions of minimum version that a compliant Device must support” (Zintel, col. 7, ln. 60-63), and further defines “a set of commands that can be invoked on a Service” based on the “mandatory common base set of functionality,” and as such describes limitations on the communication between devices to be with only those devices having a minimum set of functionality (col. 8, lns. 35-36 and 63-64). As such, the Zintel patent does not teach creating objects specific for each client apparatus or based on the type of device identified. The system in Zintel instead describes that the devices are limited in communicating with only those devices that have the corresponding and identified minimum functionality, and specifically prevents communication with other “types” of devices that do not have the minimum functionality. For example, Zintel specifically describes that a device can only communicate with those other devices that have the minimum version to be compliant with the communicating Device (see at least Zintel, col. 7, lns. 60-63, col. 9-10, lns. 67-3). Therefore, the Zintel patent does not teach and instead teaches away from a client apparatuses generating objects for different device types or forward messages to different types of device. Zintel instead describes a system in which services and devices are limited by certain minimum required functionality such that each device and/or system can only communicate with a certain device type having the certain minimum

functionalities (see at least Zintel, col. 7, lns. 60-63, col. 9-10, lns. 67-3). As such, the Zintel patent fails to describe or suggest “identifying a type of device on each of the client apparatuses; and ... generating communications for each of the client apparatuses comprising ... an object specific for each of the client apparatuses based on the type of device identified” as recited in at least claim 1. Therefore, at least claim 1 is not obvious over Peterson in view of the Faris, Kinney and Zintel references because the applied combination fails to teach or suggest each limitation as recited in claim 1, and thus, claim 1 is in condition for allowance.

Moreover, the Zintel patent fails to teach identifying a device type on each of the client apparatuses as recited in claim 1, and instead only teaches locating only those devices having a minimum set of functionality (see for example Zintel, col. 11, lns. 62-64). The portion of Zintel relied on by the office action in attempts to support the contention that the Zintel patent describes the identifying a device type on each of the client apparatuses as recited in at least claim 1 does not identify device types on each client apparatus, and instead simply describes two variables “Device Type” and “Device Type Identifier” and does not describe or suggest identifying a device type on each of the client apparatuses (see Zintel, col. 7-8, lns. 56-2 and Office Action, pg. 8). The system in Zintel does not identify the type of device on each of the client apparatuses, instead the Zintel system “enables devices to learn of the existence of potential peer devices,” and only describes locating devices having a minimum set of functionality and does not teach or suggest identifying a device type or a device type of each client apparatus (col. 11, lns. 63-64). The system of Zintel enables the devices within a network to find peer devices to communicate with wherein the clients are limited in their ability to communicate with only other devices that have their minimum functionality (see at least Zintel, col. 9-10, lns. 67-3). As such, the Zintel patent only allows communication between devices having the same device type and does not allow communication or identification with devices not having the minimum set of functionalities. Therefore, Zintel does not teach or suggest identifying a type of device on each of the client apparatuses, and instead at most only describes locating a limited number of devices having a specified minimum set of functionality. Therefore, the applied combination of Peterson, Faris, Kinney and Zintel fails to teach or suggest each

limitation as recited at least in claim 1, and thus, claim 1 is patentable over the applied combination.

Amended claim 6 contains language similar to that of claim 1 at least with respect to identifying the type of device on each of the client apparatuses and sending an object specific to each of the client apparatuses based on the type of device identified. Therefore, claim 6 is also not obvious over the combination of the applied references at least for the reasons described with respect to claim 1.

Further, amended claim 6 recites “providing a plurality of events stored in memory on a plurality of client apparatuses where content of the events are playable independent from a synchronized simultaneous playback.” The amendment to claim 6 is supported by language throughout the application, and at least with respect to FIGS. 1-2 and the descriptions of FIGS. 1-2, and for example, page 2, lines 21-30, page 10, lines 11-32, page 21, lines 19-22, page 26, lines 7-10 and page 34, lines 24-29. Applicants respectfully submit that the applied references do not teach and instead specifically teach away from providing a plurality of events stored in memory on a plurality of client apparatuses where the content from the events is independent from the synchronized simultaneous event suggested by the office action. The Peterson patent and the Faris references specifically teach away from having content stored on the memory of client devices wherein the content is independent of the synchronized simultaneous event or unrestricted and accessible without authorization. For example, the Peterson patent specifically states that “[i]t is an object of the present invention to provide a new and improved method and apparatus for enabling access, dependent upon timed availability, to content provisioned on a storage medium” (Peterson, col. 2, lns. 21-24, emphasis added). As such, the Peterson system requires that the content cannot be accessed or played back before the synchronized simultaneous event and authorization is received. Therefore, the Peterson patent specifically teaches away from content that is playable independent from the synchronized simultaneous event as suggested in the office action in that Peterson requires the content to be

restricted until authorization is received, and it goes against the intended purpose of the system as described in Peterson.

Further, the Faris reference also teaches away from playback that is independent of the synchronized simultaneous event or having unrestricted content. The Faris reference describes that content is made available to all clients based on a time restriction wherein the content is not accessible until and unless the access is authorized by the "Primary Server" (see at least Faris, pg. 9, para. [0116], pg. 15, para. [158]). As such, the Faris patent teaches away from having content stored in memory where the content is playable independent of the synchronized simultaneous event as recited in at least claim 6.

Therefore, one skilled in the art would not reference at least either Peterson or Faris as these specifically teach away from at least the playability of content of the events independent of the synchronized simultaneous playback as recited in claim 6. Further, the Kinney and Zintel references also do not teach each of the limitations as recited in claim 6, and thus, claim 6 is patentable over Peterson in view of Faris, Kinney and Zintel.

Furthermore, dependent claims 4-5 and 17 depend from claim 1, and claims 7-10 depend from amended claim 6. Thus, claims 4-5, 7-10 and 17 are also in condition for allowance at least due to their dependence on the independent claims 1 and 6.

4. Claims 11-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,825,876 (Peterson) in view of U.S. Patent Publication No. 2002/0026321 (Faris et al.), U.S. Patent No. 5,808,662 (Kinney et al.), and U.S. Patent No. 6,282,713 (Kitsukawa et al.). Applicants respectfully traverse these rejections and submit that at least claim 11 is not obvious in view of the above references. Applicants, respectfully submit that the pending office action fails to address applicant's prior arguments presented in response to the office action mailed April 27, 2006.

Applicants further respectfully submit that the MPEP §707.07 requires that "[w]here the requirements are traversed, or suspension thereof requested, the examiner should make proper reference thereto in his or her action on the amendment" (MPEP §707.7). The

MPEP further states that a final office action “should include a rebuttal of any arguments raised in the applicant’s reply” (MPEP §706.07). As such, the finality of the pending office action is in error.

Moreover, as previously stated, at least with regard to claim 11 the combination of the references above fails to teach or suggest at least “logic for recording historic data associated with the simultaneous playback and additional content during the simultaneous playback of the locally stored event” or “logic for allowing later playback by supplying just the historic data and the additional overlay content to be cooperated with locally stored event content for later playback of the simultaneous event” as recited in claim 11.

The office action suggests that the Kitsukawa patent teaches recording historic data and additional content associated with the simultaneous playback in that the Kitsukawa patent describes “displaying advertising marks on the display,” and “storing the advertising for a later time with respect to a particular portion of the event” (office action, pg. 11). However, Kitsukawa only describes storing just the advertising content for later access, and does not teach or suggest that the advertising content is played back with the program. Specifically, Kitsukawa recites that “the viewer may store the advertising information, wherein the advertising information is stored in a buffer or register for later retrieval and removed from the program broadcast” (col. 9, lns. 64-67), and “the stored advertising information is recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears” (col. 2, lns. 64-67). Accordingly, Kitsukawa does not teach later playback of the advertising content with “locally stored event content”, and instead describes only displaying the advertisement content. Further, Kitsukawa describes displaying advertising information in a broadcasting system (col. 3, ln. 61), and does not teach storing the broadcast content with the advertisement content. Therefore, the Kitsukawa patent does not suggest “recording historic data associated with the simultaneous playback and additional content during the simultaneous playback” or “allowing later playback by supplying just the historic data and the additional overlay content to be cooperated with locally stored event content for later playback of the simultaneous event” as recited in claim 11.

The office action further cites col. 6, lines 54-60 and col. 9, lines 64-67 of Kitsukawa in suggesting that the Kitsukawa patent describes storing historic content and additional content and allowing later playback of the historic content and overlay content along with the “locally stored event” (office action, pg. 11). However, col. 6, lines 54-60 recites,

furthermore, the advertising information may be received prior to receipt of the scenes or television programs in which the identified items corresponding to the advertising information appear, in which case the advertising information is stored along with timing data that links the advertising information to the corresponding scene or program.

As such, col. 6, lines 54-60 instead describes receiving overlay and timing information prior to the event. Therefore, the timing information cannot be equated to “historic data associated with the simultaneous playback” because it is clear from the claim language that “historic content” is associated with the simultaneous playback. Moreover, claim 11 further states that the recording of historic content occurs during the simultaneous playback of the event.

Therefore, even if one skilled in the art were to combine the Peterson and Kinney references with the Kitsukawa patent, the combination fails to teach or suggest each limitation as recited in claim 11. The Kitsukawa patent describes storing only the advertisement information and does not teach later playback of the advertisement information along with the broadcasted program (see at least, Kitsukawa, col. 9, lns. 64-67). The Faris reference also fails to teach or suggest recording history and content data or allowing later playback of the history and content data with the locally stored event content. Therefore, the combination of Peterson, Kinney, Kitsukawa and Faris fails to teach each limitation as recited in claim 11.

Furthermore, claim 16 recites language similar to that of independent claim 11, at least with respect to recording historic data associated with the simultaneous playback and additional content; and allowing later playback by supplying just the historic data and overlay content. As such, claim 16 is not obvious in view of the applied references at least for the same reasons as described above with respect to claim 11.



Moreover, Claims 12-15 and 18 depend from independent claim 11. Therefore, claims 12-15 and 18 are also in condition for allowance at least due to their dependence on claim 11.

### **New Claims**

New claims 19 and 20 have been added without adding any new subject matter. Both claims 19 and 20 are supported by language in the original specification. More specifically, claim 19 is supported at least by language recited on page 10, lines 3-15, and page 21, line 24 – page 22, line 11. Similarly claim 20 is supported at least by language recited on page 35, lines 1-5, and page 52, line 6 – page 53, line 20. Applicants respectfully submit that the applied combinations of references do not teach and instead teach away from a system where “only the host computer can forward communications to begin the simultaneous playback” or systems that generate “generating commands specific for each of the client apparatuses based on the type of device identified and forwarding the commands specific for each of the client apparatuses to the client apparatuses during the simultaneous playback of the event.” Therefore, new claims 19 and 20 are in condition for allowance.

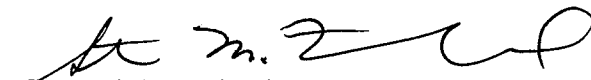
**CONCLUSION**

In view of the above amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Therefore, Applicants respectfully request a Notice of Allowance.

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Respectfully submitted,



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